

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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NATHAN PAUL SEVERSON,

Case No. 15-CV-03699 (SRN/TNL)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

MICHAEL J. COLICH, Esq.,

Defendant.

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Plaintiff Nathan Paul Severson commenced this action alleging legal malpractice and breach of contract by the defendant. Severson, an inmate, did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. In an order dated December 16, 2015, this Court ordered Severson to pay an initial partial filing fee of not less than \$71.81 within 20 days, failing which this Court would recommend that this matter be dismissed without prejudice for lack of prosecution. *See* ECF No. 5 (citing Fed. R. Civ. P. 41(b); 28 U.S.C. § 1915(b)).

That deadline has now passed, and Severson has not paid the required filing fee. In fact, Severson has not communicated with the Court about this case at all since the order. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”)

## RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS**  
**HEREBY RECOMMENDED** that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Plaintiff Nathan Paul Severson's application to proceed *in forma pauperis* [ECF No. 2] be **DENIED AS MOOT**.

Dated: January 20, 2016

s/ Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge

*Severson v. Colich*  
Case No. 15-CV-03699 (SRN/TNL)

## NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.